

The Texas Board of Chiropractic Examiners (Board) adopts an amendment to 22 TAC §73.2 (Failure to Meet Continuing Education Requirements) without changes to the text as published in the March 10, 2023, issue of the *Texas Register* (48 TexReg 1400). The amendment simply clarifies that the Board will determine a licensee is out of compliance of the licensee's continuing education requirements by means of a 10% random audit by the Board. This change from a 100% audit of licensees' continuing education hours to a random audit was recommended by the Sunset Commission.

The Board received one comment concerning the amendment from the Texas Medical Association (TMA). TMA expressed concern that the amendment arguably could somehow be read as possibly precluding the Board from enforcing its continuing education requirements by any means other than through a random compliance audit.

While the Board appreciates TMA's recommendation to rewrite the rule, the Board respectfully declines. Texas Occupations Code §201.501 (Disciplinary Powers of the Board) gives the Board the authority to discipline a licensee for any violation of Occupations Code Chapter 201 or rule adopted by the Board, which includes the Board's continuing education rules in 22 TAC Chapter 73. This rule amendment does not alter that in the slightest.

The amended rule is adopted under Texas Occupations Code §201.152, which authorizes the Board to adopt rules necessary to perform the Board's duties and to regulate the practice of chiropractic, and Texas Occupations Code §201.356, which authorizes the Board to adopt rules relating to licensee continuing education requirements.

No other statutes or rules are affected by this adopted amended rule.

<rule>

73.2. Failure to Meet Continuation Education Requirements.

- (a) A licensee failing to meet minimum continuing education requirements, as determined by a random compliance audit, shall have the licensee's license placed in a Continuing Education Conditional (CEC) status for 12 months.
- (b) A licensee under CEC status may continue to practice if the licensee completes the required continuing education within the 12 month CEC period.
- (c) The Board shall reinstate a license in CEC status when the licensee submits written verification of completing the required continuing education.
- (d) If a licensee fails to reinstate a license during any CEC status period, the Board shall deem the license expired from the beginning date of the CEC status year.

(e) A licensee whose license expires under subsection (d) of this section shall obtain a new license in order to practice.

(f) A licensee may not use continuing education courses taken to satisfy a deficiency in a prior reporting year for a subsequent reporting year.

(g) A licensee may not have a license on CEC status for two consecutive years.

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